

LAMONICA HERBST & MANISCALCO, LLP  
3305 Jerusalem Avenue, Suite 201  
Wantagh, NY 11793  
(516) 826-6500  
Salvatore LaMonica, Esq.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 7

Case No.: 10-24390 (RDD)

SHIMON ALBAZ,

Debtor.

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**APPLICATION IN SUPPORT OF EMPLOYMENT OF LAMONICA HERBST &  
MANISCALCO, LLP AS ATTORNEYS FOR THE TRUSTEE**

The application (the “Application”) of Marianne T. O’Toole, the Chapter 7 trustee (the “Trustee”) of the estate of Shimon Albaz (the “Debtor”), seeks the entry of an Order of this Court approving the employment of LaMonica Herbst & Maniscalco, LLP (“LH&M”) as her attorneys, and respectfully represents and alleges:

1. On November 18, 2010, the Debtor filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code (the “Bankruptcy Code”).

2. By Notice of Appointment, Marianne T. O’Toole was appointed as the interim Chapter 7 Trustee of the Debtor’s estate. By operation of law, she became the permanent Chapter 7 Trustee of the Debtor’s estate.

3. The Trustee believes that the retention of LH&M is necessary in this matter to assist the Trustee in connection with an investigation into a potential avoidance action with respect to the real property located at 6 Pinewood Drive, Monsey, New York 10952 (the “Real Property”) and the Trustee has concluded that the Debtor transferred his interest in the Real Property to his ex-wife, Shlomit Albaz, for no consideration.

4. Accordingly, the Trustee requests that LH&M be retained as her attorneys. The Trustee, who is not a member of LH&M, believes that LH&M is well qualified to act as her attorneys and to represent her as the Trustee in this case.

5. To the best of the Trustee's knowledge, LH&M has no connection with the Debtor's creditors or any other party in interest or their respective attorneys, except as set forth in the attached affidavit of Salvatore LaMonica, Esq. dated March 1, 2011.

6. To the best of the Trustee's knowledge, LH&M represents no interest adverse to the Debtor or this estate, or any other interested person in the matters with respect to which LH&M is being retained by the Trustee, except as set forth in the attached affidavit of Salvatore LaMonica, Esq.

7. To the best of the Trustee's knowledge, LH&M is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code in that LH&M: (a) is not a creditor, an equity security holder, or an insider of the Debtor; (b) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the Debtor; and (c) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtor, or for any other reason.

8. Finally, the Trustee seeks to retain LH&M effective as of February 23, 2011, which is the day LH&M began providing professional services to the Trustee and the estate.

9. No prior application for the relief sought herein has been previously made to this or any other court.

**WHEREFORE**, the Trustee respectfully requests entry of the order authorizing the retention of LaMonica Herbst & Maniscalco, LLP as attorneys for the Trustee, effective as of February 23, 2011.

Dated: Katonah, New York  
March 1, 2011

s/ Marianne T. O'Toole  
Marianne T. O'Toole, as Chapter 7 Trustee  
Marianne T. O'Toole, LLC  
20 Valley Road, Suite One  
Katonah, New York 10536  
Telephone: (914) 232-1511

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**AFFIDAVIT IN SUPPORT OF APPLICATION APPROVING  
EMPLOYMENT OF LAMONICA HERBST & MANISCALCO, LLP  
AS ATTORNEYS FOR THE TRUSTEE**

STATE OF NEW YORK     )  
                                  ) SS.:  
COUNTY OF NASSAU     )

SALVATORE LAMONICA, ESQ., being duly sworn, deposes and says:

1. I am a member of the firm of LaMonica Herbst & Maniscalco, LLP (“LH&M”), which maintains its offices at 3305 Jerusalem Avenue, Wantagh, New York 11793. I am duly admitted to practice law before this Court and the courts of the State of New York.

2. LH&M does not represent any creditors or any other party in interest or their respective attorneys in any matter adverse to the debtor, Shimon Albaz (the “Debtor”), Marianne T. O’Toole, as chapter 7 Trustee of the Debtor’s estate (the “Trustee”), or this estate.

3. Neither LH&M nor I represent or hold any interest adverse to the Debtor, the Trustee or this estate in the matters upon which LH&M is to be engaged.

4. LH&M is a “disinterested person” as that term is defined in Section 101(14) of the Bankruptcy Code, in that LH&M: (a) is not a creditor, an equity security holder, or an insider

of the Debtor; (b) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the Debtor; and (c) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtor, or for any other reason.

5. The current hourly rates for LH&M's professionals are as follows: (a) from one hundred dollars (\$100.00) up to one hundred fifty dollars (\$150.00) for para-professionals; (b) from two hundred and fifty dollars (\$250.00) up to three hundred seventy-five dollars (\$375.00) for associates; and (c) from four hundred dollars (\$400.00) up to five hundred and twenty-five dollars (\$525.00) for of-counsel and partners.

s/ Salvatore LaMonica  
Salvatore LaMonica, Esq.

Sworn to before me this  
1<sup>st</sup> day of March 2011

s/ Melanie A. FitzGerald  
Melanie A. FitzGerald  
Notary Public, State of New York  
No. 02FI4841188  
Qualified in Nassau County  
Commission Expires December 31, 2013